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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,906	08/28/2006	Martin Dauelsberg	03345-P0069A	9801
24126	7590	04/02/2009	EXAMINER	
ST. ONGE STEWARD JOHNSTON & REENS, LLC 986 BEDFORD STREET STAMFORD, CT 06905-5619			KUNEMUND, ROBERT M	
ART UNIT		PAPER NUMBER		
1792				
MAIL DATE		DELIVERY MODE		
04/02/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/591,906	DAUELSBERG ET AL.	
	Examiner	Art Unit	
	Robert M. Kunemund	1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 05 January 2009.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3 to 6, 9 and 10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Saito et al (6,218,212).

The Saito et al reference teaches a method and device for deposition of semiconductors, note entire reference. The apparatus consists of a growth chamber, which has contains substrates. The growth chamber is heated by heaters on top and on the bottom. There is up stream from the growth chamber, a mixing chamber for mixing of the precursor gases. There are threes different inlets of the gases. The inlets are arranging in the chamber from top to bottom, with each atop of the other, note figures. The apparatus of the Saito et al reference is clearly capable of using the claimed gases.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 7, 8 and 11 to 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito et al.

The Saito et al reference is relied on for the same reasons as stated, supra, and differs from the instant claims in the height and substrates. However, it would have been obvious to one of ordinary skill in the art to determine through routine experimentation the optimum, operable heights and substrate placements and numbers in the Saito et al reference in order to ensure proper mixing of the gases and uniform deposition.

Claims 2 and 16 to 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito et al in view of Kaeppeler (Ger 10247921)

The Saito et al reference is relied on for the same reasons as stated, supra, and differs from instant claims in the deposition method. However, the Kaeppeler reference teaches hydride chemical vapor deposition methods, using the claimed hydrides, note abs. It would have been obvious to one ordinary skill in the art to modify the Saito et al

method by the teachings of the Kaeppeler reference to grow using hydrides in order to lower deposition temperatures increasing uniformity.

Response to Applicants' Arguments

Applicant's arguments filed January 5, 2009 have been fully considered but they are not persuasive.

Applicants' argument concerning Saito reference is noted. However, the device claims are not limited in scope to the exact gas. The exact gas used is the use or process done in the apparatus and not the apparatus itself. The prior art apparatus must merely be capable of performing the claimed limitations. Clearly, the apparatus of the Saito reference is capable of using hydride gas and flowing the gas in the manner claimed.

Applicants' argument concerning the Kaeppeler reference has been considered and not deemed persuasive. The reference does teach that the hydrides do have pluses over metal organics. The reference further shows substituting the gases. It would have been well within the skill of the art to use hydrides in Saito as suggested by Kaeppeler in order to create a more uniform layer.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Kunemund whose telephone number is 571-272-1464. The examiner can normally be reached on 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Kornakov can be reached on 571-272-1303. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert M Kunemund

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Primary Examiner
Art Unit 1792

RMK

/Robert M Kunemund/
Primary Examiner, Art Unit 1792